

REQUEST FOR RECONSIDERATION

Applicant acknowledges with appreciation the Examiner's courtesy in again discussing the above-captioned patent application during a personal interview with Applicants' representative on March 30, 2004. In response to the Office Action mailed February 4, 2004, and in accordance with the Interview of March 30, 2004, Applicant hereby amends claims 1, 17, and 59. Applicant is amending claims 1 and 59 to clarify the description of the claimed invention and is amending claim 17 to correct its dependency. During the Interview, the Examiner also suggested that Applicant remove the following language from claim 59: "said exterior surface does not generate a shrinking force, and." After removal of this language, however, claim 59 would be substantially identical to claim 1. Therefore, Applicant is amending claim 59 further to specifically describe a graft with a flared portion formed on each of the first and second end of the tubular portion.

Applicant respectfully requests that the Examiner enter the foregoing amendments. No new matter is added by these amendments, and the amendments are fully supported by the specification. For example, the term "monolithic" is defined in Applicant's specification as "formed without intervening seams or overlap." E.g., Appl'n, Page 6, Lines 8-9; Page 6, Lines 17-19; Page 6, Lines 30-31; and Page 7, Lines 8-10. In view of the accompanying Request for Continued Examination (RCE), Applicant respectfully requests that the Examiner reconsider the above-captioned patent application in view of the foregoing amendments and following remarks.

REMARKS

1. Rejections

Applicant acknowledges with appreciation that the Examiner has allowed claims 41-58, and that the Examiner again indicates that claims 7-11, 14, 17, 20, 23, 26, and 33-37 would be allowable if rewritten to overcome certain indefiniteness rejections and if rewritten in independent form, including the limitations of their base claim and any intervening claims. Applicant further acknowledges with appreciation that the Examiner has not renewed his previous rejections to reject claims 1, 3, 4, 18, 29, and 30 under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 4,957,508 to Kaneko et al.; to claims 1, 12, 15, 21, 27, and 38-40 under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 6,589,278 to Harris et al.;

and to claim 24 under 35 U.S.C. § 103(a), as allegedly rendered obvious by Harris in view of U.S. Patent No. 5,989,287 to Yang et al. (“Yang”).

Nevertheless, the Office Action raises new rejections and makes those new rejections **final** by this communication. Specifically, claims 1, 3-12, 14, 15, 17, 18, 20, 21, 23, 24, 26, 27, 29-40, and 59 stand rejected under 35 U.S.C. § 112, ¶ 1, as allegedly claiming subject matter not sufficiently described in the specification. Further, claims 1, 3-6, 18, 21, 24, and 59 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 6,517,570 to Lau et al. (“Lau”), and claims 1, 12, 15, 27, 29-32, and 38-40 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by Yang. Applicant respectfully traverses.

2. Interview Results

As noted above, claims 1, 3-12, 14, 15, 17, 18, 20, 21, 23, 24, 26, 27, 29-40, and 59 stand rejected as allegedly claiming subject matter not sufficiently described in the specification, and claims 1, 3-6, 18, 21, 24, and 59 stand rejected as allegedly anticipated by Lau. During the interview on March 30, 2004, Applicant’s representative discussed certain proposed amendments with the Examiner. As noted in the Interview Summary those “proposed amendments overcome the 112 rejection and the rejection based on Lau . . .” The Interview Summary further notes that “[i]t is not necessary . . . to provide a separate record of the substance of the interview.” Therefore, in view of the foregoing amendments, Applicant respectfully requests that the Examiner withdraw the indefiniteness rejections and the anticipation rejections under Lau.<sup>1</sup>

3. Yang

Claims 1, 12, 15, 27, 29-32, and 38-40 stand rejected as allegedly anticipated by Yang. “A claim is anticipated if and only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP 2131. In view of the foregoing amendments, Applicant respectfully traverses.

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<sup>1</sup> Applicant is enclosing copies of the supporting materials that Applicant’s representative provided to the Examiner and which the Examiner considered during the Interview of March 30, 2004, and a Form PTO-1449 listing those materials.

Yang describes the addition of support sleeves 26a and 26b to each end of host vessel 22, such as a harvested vein or artery. Referring to Yang's **Fig. 1C**, the ends of host vessel 22 are joined to a pair of a patient's vessels to form a bypass, and support sleeves 26a and 26b are connected to the pair of vessels over the opposite ends of the host vessel 22. Yang, Column 6, Lines 32-50. Support sleeves 26a and 26b may be slipped over ends 36 and 38 of host vessel 22 and attached, e.g., by stitching, thereto. Id. Alternatively, support sleeves 26a and 26b may be attached, e.g., by stitching, end-to-end to ends 36 and 38 of host vessel 22. Id. In the first configuration, there clearly is an overlap between host vessel 22 and support sleeves 26a and 26b. In both configurations, however, there clearly is a seam between the dissimilar materials of host vessel 22 and support sleeves 26a and 26b. See Yang, Column 5, Lines 64-67, and Column 6, Lines 1-6. Although the Examiner had previously raised and withdrawn an anticipation rejection based on Yang, the Examiner now alleges that the unamended claim 1 was sufficiently broad to read on either of Yang's support sleeves 26a and 26b.

In accordance with the discussion during the Interview, Applicant is amending claims 1 and 59 to include structural limitations which more clearly distinguish the claimed invention over Yang. In particular, Applicant has amended claims 1 and 59 to clarify that the claimed invention is a "graft" and comprises a tubular portion "configured to extend and to form a conduit between at least a pair of blood vessels." Further, claim 1 is amended to describe "at least one flared portion having an adjoining end . . . ; whereby said at least one flared portion comprises a circumferential skirt adapted for surgical attachment of said graft to one of said blood vessels." (Emphasis added.)<sup>2</sup> Moreover, per the Examiner suggestion, Applicant has replaced the term "monolithic" with the phrase "formed without intervening seams or overlap" in order to clarify this additional distinction between the claimed invention and Yang. E.g., Appl'n, Page 6, Lines 8-9; Page 6, Lines 17-19; Page 6, Lines 30-31; and Page 7, Lines 8-10. Applicant maintains that his bypass graft, as described in amendment claim 1, is clearly distinguished over

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<sup>2</sup> Similarly, claim 59 is amended to describe "a first flared portion and a second flared portion, each having an adjoining end . . . ; whereby each of said flared portions comprises a circumferential skirt adapted for surgical attachment of said graft to one of said blood vessels." (Emphasis added.) Although the Office Action does not allege that claim 59 is anticipated by Yang, Applicant maintains that the foregoing amendments further distinguish the invention described in claim 59 over Yang.

Yang's sleeves, and respectfully requests that the Examiner withdraw the anticipation rejections of claims 1, 12, 15, 27, 29-32, and 38-40 by Yang.

CONCLUSION

Applicant respectfully submits that this application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an additional interview with Applicant's representatives, either in person or by telephone, would expedite prosecution of this application, we would welcome such an opportunity. Applicant is enclosing check including the amount for the requisite fee for a Request for Continued Examination. Nevertheless, in the event of any variance between the fees determined by Applicants and those determined by the PTO, please charge any such variance to the undersigned's Deposit Account No. 02-0375.

Respectfully submitted,

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Enclosures